



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2015-0854; FRL- 9949-00-Region 10]

Air Plan Approval; Oregon; Medford Area Carbon Monoxide Second 10-Year Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a second 10-year carbon monoxide (CO) limited maintenance plan (LMP) for the Medford area in Oregon, submitted by the Oregon Department of Environmental Quality (ODEQ) on December 11, 2015, along with a supplementary submittal on December 30, 2015, as a revision to its State Implementation Plan (SIP). In accordance with the requirements of the Clean Air Act (CAA), the EPA is approving this SIP revision because it demonstrates that the Medford area will continue to meet the CO National Ambient Air Quality Standards (NAAQS) for a second 10-year period beyond redesignation, through 2025.

DATES: This rule is effective on **[Insert date 60 days after date of publication in the Federal Register]**, without further notice, unless the EPA receives adverse comment by **[Insert date 30 days after date of publication in the Federal Register]**. If the EPA receives adverse comment, we will publish a timely withdrawal in the Federal Register informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-OAR-2015-

0854 at <http://www.regulations.gov>, or via email to Chi.John@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: John Chi, Air Planning Unit, Office of Air and Waste (OAW-150), Environmental Protection Agency, 1200 6th Avenue, Seattle, WA 98101; telephone number: 206-553-1185; email address: Chi.John@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, it is intended to refer to the EPA.

Table of Contents

- I. This Action
- II. Background
- III. Evaluation of Oregon’s Submittal
 - A. Base Year Emission Inventory
 - B. Demonstration of Maintenance
 - C. Control Measures

- D. Monitoring Network and Verification of Continued Attainment
- E. Contingency Plan
- F. Transportation and General Conformity
- IV. Final Action
- V. Statutory and Executive Order Reviews

I. This Action

The EPA is approving the carbon monoxide limited maintenance plan (CO LMP) submitted by the ODEQ, on December 11, 2015, along with a supplementary submittal on December 30, 2015, (the submittal) for the Medford area. A LMP is a means of meeting Clean Air Act (CAA) requirements for formerly designated nonattainment areas that meet certain qualification criteria. This CO LMP is designed to keep the Medford area in attainment with the CO standard for a second 10-year period beyond redesignation, through 2025.

II. Background

Under Section 107(d)(1)(c) of the CAA, each CO area designated nonattainment prior to enactment of the 1990 Amendments, such as Medford, was designated nonattainment by operation of law upon enactment of the 1990 Amendments. Under section 186(a) of the CAA, each CO area designated nonattainment under section 107(d) was also classified by operation of law as either “moderate” or “serious” depending on the severity of the area’s air quality problem. CO areas with design values between 9.1 and 16.4 parts per million (ppm), such as Medford, were classified as moderate. These nonattainment designations and classifications were codified in 40 CFR part 81 on November 6, 1991 (56 FR 56695).

On July 24, 2002, the EPA approved the ODEQ’s request to redesignate the Medford area to attainment of the CO standard (67 FR 48388). In that action, the EPA also approved the

maintenance plan required under CAA section 175A(a) to provide for 10 years of maintenance of the CO standard in the Medford area through the year 2015 (67 FR 48388).

As required by the CAA section 175A(b), the SIP submittal provides a second 10-year plan for maintaining the CO standard in the Medford area until 2025. For the second 10-year maintenance plan, the ODEQ chose the option as described in an EPA October 6, 1995 memorandum from Joseph Paisie, the Group Leader of the Integrated Policy and Strategies Group, titled, "Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas" (LMP Option). To qualify for the LMP Option, the CO design value for an area, based on the eight consecutive quarters (two years of data) used to demonstrate attainment, must be at or below 7.65 ppm (85 percent of the CO NAAQS). In addition, the control measures from the first CO maintenance plan must remain in place.

The EPA has determined that the LMP Option for CO is also available to all states as part of the CAA 175A(b) update to the maintenance plans, regardless of the original nonattainment classification, or lack thereof. Thus, the EPA finds that although the Medford area was designated as a moderate nonattainment area for the CO NAAQS, redesignation to attainment status in conjunction with meeting all requirements of the October 6, 1995, memorandum, allows the ODEQ to be eligible to submit a LMP as the update to its original maintenance plan per section 175A(b) of the CAA.

III. Evaluation of Oregon's Submittal

The requirements of the LMP Option and the EPA's evaluation of how each requirement has been met by the ODEQ's submittal is summarized below.

A. Base Year Emission Inventory

The LMP must contain an attainment year emissions inventory to identify a level of CO emissions in the area that is sufficiently low enough to attain the CO NAAQS. The submittal contains a summary of the CO emissions inventory for the Medford area for the base year 2008. The emission inventory lists CO emissions by general source category – stationary point sources, stationary area sources, on-road mobile sources and non-road mobile sources. On-road mobile sources emissions for the 2008 base year inventory were estimated with the EPA’s Motor Vehicle Emissions Simulator (MOVES) 2010b.¹ The methods used to determine the Medford area CO emission inventory are consistent with the EPA’s most recent guidance on developing emission inventories.

Historically, exceedances of the CO standard in the Medford area have occurred during the winter months, when cooler temperatures contribute to incomplete combustion, and when CO emissions are trapped near the ground by atmospheric inversions. Sources of carbon monoxide include industry, motor vehicles, non-road mobile sources, (e.g., construction equipment, recreational vehicles, lawn and garden equipment, and area sources (e.g., outdoor burning, woodstoves, fireplaces, and wildfires). The three consecutive months - December through February define the typical CO season. As such, season day emissions in addition to annual emissions are included in the inventory. The unit of measure for annual emissions is in tons per year (tpy), while the unit of measure for season day emissions is in pounds per day (lb/day). The county-wide emissions inventory data is spatially allocated to the Medford urban growth boundary (UGB), and to buffers around the UGB, depending on emissions category.

2008 Emissions Inventory, Main Source Category Subtotals

¹ MOVES2010b was the most current model available at the time that ODEQ was performing its analysis. The EPA released MOVES2014 on October 7, 2014 (79 FR 60343).

Main Source Category	Annual Emissions Tons per Year	CO Emissions Pounds per Winter Day
Stationary Point Sources	2,367.1	13,159
On-road Mobile Sources	5,730.0	28,731
Non-road Mobile Sources	4,488.2	10,061
Stationary Area Sources	3,333.1	30,399
Total	15,927.4	82,350

B. Demonstration of Maintenance

The CO NAAQS is attained when the annual second highest 8-hour average CO concentration for an area does not exceed a concentration of 9.0 ppm. The last monitored violation of the CO NAAQS in the Medford area occurred in 1991, and CO levels have been steadily in decline. The second highest 8-hour CO concentration in 2009 was 2.4 ppm, which is in attainment with the CO NAAQS.

For areas that meet the criteria to use the LMP Option, the maintenance plan demonstration requirement is considered to be satisfied. The EPA believes that if the area begins the maintenance period at, or below, 85 percent of the level of the CO 8-hour NAAQS (at or below 7.65 ppm), the applicability of prevention of significant deterioration requirements, the control measures already in the SIP, and Federal control measures already in place will provide adequate assurance of maintenance over the maintenance period. Thus, there is no requirement to project emissions of air quality over the upcoming maintenance period. The second highest 8-hour CO concentration for Medford based on the two most recent years of data (2008-2009) is 2.4 ppm, which is significantly below the LMP Option requirement of 7.65 ppm.² Therefore, the

² The years 2008-2009 are the most recent two years for available monitoring data because monitoring was discontinued after 2009. The ODEQ has developed an alternate method to verify continued attainment of the CO NAAQS, discussed in the next section.

EPA finds that the ODEQ has demonstrated that the Medford area qualifies for the LMP Option and has satisfied the maintenance demonstration requirement.

C. Control Measures

The submittal retains the control measures from the first CO maintenance plan (67 FR 48388). The primary control measure has been the emission standards for new motor vehicles under the Federal Motor Vehicle Control Program. Other control measures have been the Major New Source Review Program with Best Available Control Technology (BACT), Motor Vehicle Inspection Program, and a woodsmoke curtailment program. As stated above, the EPA believes that the Medford area will continue to maintain the standard with the continued implementation of these control measures along with meeting the other requirements to qualify for the LMP option.

D. Monitoring Network and Verification of Continued Attainment

Monitored CO levels in the Medford area have declined progressively since 1991. CO levels have declined significantly across the nation through motor vehicle emissions controls and fleet turnover to newer, cleaner vehicle models. Once CO levels declined and continued to stay well below the NAAQS, the ODEQ requested to remove the Medford CO monitor in 2009 and the EPA approved the request on October 14, 2010. The ODEQ now has been using an alternate method of verifying continued attainment with the CO standard based on the regional emissions analysis conducted by the Rogue Valley Metropolitan Planning Organization and by using the Portland CO monitor to track trends in general CO levels. Both the ODEQ report and the EPA network approval letter are included in the materials of this docket.

Under the Medford CO LMP, the ODEQ will verify continued attainment of the CO

NAAQS by conducting a review of CO emissions inventory data for the Medford area. The ODEQ will calculate CO emissions every three years as part of the Statewide Emissions Inventory, which is submitted to the EPA for inclusion in the National Emissions Inventory (NEI). The ODEQ commits to review the NEI estimates to identify any increases over the 2008 emission levels (see the base year emissions inventory in this section) and report on them in the annual monitoring network plan for the applicable year. Because on-road mobile sources and stationary area sources are the predominant sources of CO in Medford, these source categories will be the primary focus of the ODEQ's review. The ODEQ will evaluate any increase in CO emissions to confirm it is not due to a change in emission calculation methodology, an exceptional event, or other factor not representative of an actual emissions increase.

E. Contingency Plan

Section 175A(d) of the CAA requires that a maintenance plan include contingency provisions necessary to ensure prompt correction of any violations of the standard that may occur. The ODEQ has submitted a revised contingency plan that has three phase of action. The initial contingency plan trigger is a "significant increase" in the emissions inventory, which is defined as ten percent above the 2008 emissions inventory levels. The three phases of actions are as follows:

Phase 1. If the three-year review of CO emissions shows a significant increase in emissions, the ODEQ will reestablish ambient CO monitoring in Medford.

Phase 2. If the monitoring data indicates that the LMP eligibility level of 7.65 ppm (85 percent of the 8-hr standard) is exceeded, the ODEQ will evaluate the cause of the CO increase, and investigate corrective strategies.

Phase 3. If a validated violation of the CO standard occurs, in addition to Phase 2 above, the ODEQ will replace the BACT requirement for new and expanding industry with Lowest Achievable Emission Rate (LAER); reinstate CO emissions offset requirements for new and expanding industry; and consider other CO emission reduction measures.

F. Transportation and General Conformity

Federal transportation conformity rules (40 CFR parts 51 and 93) and general conformity rules (58 FR 63214) continue to apply under a LMP. However, as noted in the LMP Option memo, these requirements are greatly simplified. An area under a LMP can demonstrate conformity without submitting an emissions budget, and as a result, emissions do not need to be capped nor does a regional emissions analysis (including modeling) need to be conducted.

On April 28, 2016, the EPA found the Medford CO LMP to be adequate for transportation conformity purposes (81 FR 25394). Although regional emissions are no longer required as part of the transportation conformity determinations for CO for the Medford area, other transportation conformity requirements continue to apply to the area, such as consultation, transportation control measures, and project level conformity requirements. The Medford area will continue to be exempt from performing a regional emission analysis, but must meet project-level conformity analyses as well as transportation conformity areas.

IV. Final Action

In accordance with the requirements of the CAA, the EPA is approving the Medford CO LMP submitted by the ODEQ on December 11, 2015, and supplemented on December 30, 2015. The ODEQ has adequately demonstrated that the Medford area qualifies for the LMP option and will maintain the CO NAAQS through the second 10-year maintenance period through 2025.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of the Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 30, 2016

Michelle L. Pirzadeh
Acting Regional Administrator,
Region 10.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart MM—Oregon

2. Amend § 52.1970, paragraph (e), table titled “State of Oregon Air Quality Control Program” by revising “Section 4” to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(e) * * *

STATE OF OREGON AIR QUALITY CONTROL PROGRAM

SIP citation	Title/subject	State effective date	EPA Approval Date	Explanation
*	*	*	*	*
Section 4	Control Strategies for Nonattainment Areas			
		4.1, 12/19/1980	4.1, 4/12/1982, 47 FR 15587	4.1 Portland-Vancouver TSP Attainment Plan.
		4.2, 7/16/1982	4.2, 10/7/1982, 47	4.2 Portland-Vancouver CO

			FR 44261	Attainment Plan.
		4.3, 7/16/1982	4.3, 10/7/1982, 47 FR 44261	4.3 Portland- Vancouver Ozone Attainment Plan.
		4.4, 6/20/1979	4.4, 6/24/1980, 45 FR 42265	4.4 Salem CO Attainment Plan.
		4.5, 9/19/1980	4.5, 4/12/1982, 47 FR 15587	4.5 Salem Ozone Attainment Plan.
		4.6, 1/30/1981	4.6, 4/12/1982, 47 FR 15587	4.6 Eugene- Springfield TSP Attainment Plan.
		4.7, 6/20/1979	4.7, 6/24/1980, 45 FR 42265	4.7 Eugene- Springfield CO Attainment Plan.
		4.7, 12/9/1988	4.7, 12/6/1993, 58 FR 64161	4.7 Eugene- Springfield CO Maintenance Plan
		4.8, 1/25/85	4.8, 6/4/1986, 51 FR 20285	4.8 Medford- Ashland Ozone, Maintenance Plan.
		4.9, 10/15/1982	4.9, 2/13/1987, 52 FR 4620	4.9 Medford- Ashland CO Attainment Plan.
		4.10, 4/1983	4.10, 8/15/1984, 49 FR 32574	4.10 Medford- Ashland TSP, Attainment Plan.
		4.11, 10/24/1986	4.11, 1/15/1988, 53 FR 1020	4.11 Grants Pass CO, Attainment Plan.
		4.12, 8/18/1995	4.12, 4/14/1997, 62 FR 18047	4.12 Klamath Falls PM-10 Attainment Plan.
		4.13, 11/13/1991	4.13, 12/17/1993, 58 FR 65934	4.13 Grants Pass PM-10 Attainment Plan.
		4.14, 9/9/2005	4.14, 6/19/2006, 71 FR 35163	4.14 Medford PM- 10 Attainment and Maintenance Plan.

		4.15, 11/8/1991	4.15, 2/15/1995, 60 FR 8563	4.15 La Grande PM-10 Attainment Plan.
		4.16, 1/31/1991	4.16, 8/24/1994, 59 FR 43483	4.16 Eugene- Springfield PM-10 Attainment Plan.
		4.17, 11/20/2000, (submittal date)	4.17, 9/20/2001, 66 FR 48340	4.17 Klamath Falls CO Maintenance Plan.
		4.18, 11/4/1996	4.18, 3/15/1999, 64 FR 12751	4.18 Oakridge PM-10 Attainment Plan.
		4.19, 6/1/1995, (submittal date)	4.19, 9/21/1999, 64 FR 51051	4.19 Lakeview PM-10 Attainment Plan.
		4.50, 8/14/1996	4.50, 5/19/1997, 62 FR 27204	4.50 Portland/Vancouver Ozone Maintenance Plan
		4.50, 4/12/2007	4.50, 12/19/2011, 76 FR 78571	4.50 Portland- Vancouver AQMA (Oregon portion) & Salem Kaizer Area 8-hour Ozone (110(a)(1)) Maintenance Plan
		4.51, 7/12/1996	4.51, 9/2/1997, 62 FR 46208	4.51 Portland CO Maintenance Plan.
		4.52, 3/9/2001	4.52, 7/24/2002, 67 FR 48388	4.52 Medford CO Maintenance Plan.
		4.53, 9/10/1999	4.53, 8/31/2000, 65 FR 52932	4.53 Grants Pass CO Maintenance Plan.
		4.55, 10/4/2002	4.55, 10/27/2003, 68 FR 61111	4.55 Grants Pass PM-10 Maintenance Plan.
		4.56, 10/4/2002	4.56, 10/21/2003, 68 FR 60036	4.56 Klamath Falls PM-10 Maintenance Plan.
		4.57, 6/28/2007	4.57, 12/30/2008,	4.57 Salem-Keizer Area CO, Limited

			73 FR 79655	Maintenance Plan.
		4.58, 12/15/2004	4.58, 1/24/2006, 71 FR 3768	4.58 Portland Area CO Maintenance Plan 2nd 10-year.
		4.58, 12/11/2013	4.58, 5/22/2014, 79 FR 29360	4.58 Portland Area CO Maintenance Plan 2nd 10-year; TCM substitution update 4.58.3.2.2.
		4.59, 9/9/2005	4.59, 6/19/2006, 71 FR 35161	4.59 La Grande PM10 Maintenance Plan.
		4.60, 9/9/2005	4.60, 6/19/2006, 71 FR 35159	4.60 Lakeview PM10 Maintenance Plan.
		4.61, 9/26/2011	4.61, 4/11/2013, 78 FR 21547	4.61 Eugene- Springfield PM10 Limited Maintenance Plan.
		4.62, 12/12/2012	4.62, 6/6/2016, 81 FR 36178	4.62, Klamath Falls PM _{2.5} Attainment Plan
		4.63, 4/16/2015	4.63, 7/28/2015, 80 FR 44867	4.63 Grants Pass Second 10-Year Carbon Monoxide Limited Maintenance Plan
		4.64, 4/16/2015	4.64, 7/30/2015 80 FR 45435	4.64 Grants Pass Second 10-Year PM ₁₀ Limited Maintenance Plan
		4.65, 12/11/2015	4.65 [Insert <u>Federal Register</u> publication date] [Insert <u>Federal Register</u> citation]	4.65 Medford Second 10-Year Carbon Monoxide Limited Maintenance Plan

*	*	*	*	*	*	*
---	---	---	---	---	---	---

* * * *

[FR Doc. 2016-17060 Filed: 7/19/2016 8:45 am; Publication Date: 7/20/2016]